

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the Application of:

Rogers et al.

Serial No.: 10/052,077

Filed: January 17, 2002

For: Passive Flow Control Devices For  
Implantable Pumps

**RECEIVED**

FEB 04 2004

TECHNOLOGY CENTER R3700

Atty. Docket No.: 011738.00052

Group Art Unit: 3763

Examiner: Sirmons, Kevin C.

Confirmation No.: 2977

**SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

Pursuant to 37 C.F.R., 1.97 and 1.98, the Applicant wishes to make the following references of record in the above-identified application. This Information Disclosure Statement is in compliance with the continuing duty of candor as set forth in 37 C.F.R., 1.56. Copies of the references cited below are enclosed. The references are also listed on the enclosed and completed PTO Form 1449.

02/02/2004 HALI11 00000085 190733 10052077

01 FC:1806 180.00 DA

**REFERENCES**

**U.S. Patent Documents**

1. U.S. Patent No.: 4,077,405; issued March 7, 1978;
2. U.S. Patent No.: 4,696,671; issued September 9, 1987;
3. U.S. Patent No.: 4,828,545; issued May 9, 1989;
4. U.S. Patent No.: 4,865,584; issued September 12, 1989;
5. U.S. Patent No.: 4,898,583; issued February 6, 1990;
6. U.S. Patent No.: 4,898,585; issued February 6, 1990;
7. U.S. Patent No.: 5,049,141; issued September 17, 1991;
8. U.S. Patent No.: 5,100,380; issued March 31, 1992;
9. U.S. Patent No.: 5,267,964; issued December 7, 1993;
10. U.S. Patent No.: 5,304,126; issued April 19, 1994;
11. U.S. Patent No.: 5,464,392; issued November 7, 1995;

#9

#### Foreign Patent Documents

1. German Publication No. DE 196 42 234; issued April 30, 1998;
2. United Kingdom Publication No. 1 506 305; issued April 5, 1978;
3. European Publication No. 0039124; issued November 4, 1981;
4. European Publication No. 0079405; issued May 25, 1983;
5. European Publication No. 0134614; issued March 20, 1985;
6. European Publication No. 0254031; issued January 27, 1988;
7. European Publication No. 0342947; issued November 23, 1989;
8. European Publication No. 0420620; issued April 3, 1991;
9. European Publication No. 0424494; issued March 2, 1991;
10. European Publication No. EP0860173; issued August 26, 1998;
11. International Publication No. WO 87/00758; issued February 12, 1987;
12. International Publication No. WO 91/15258; issued October 17, 1991;
13. International Publication No. WO 99/38551; issued August 5, 1999.

#### Other References

1. French Search Report; August 28, 2001;
2. French Search Report; October 21, 2003.

This Information Disclosure Statement is filed under 37 C.F.R. 1.97-1.98 after the issuance of a first Office Action on the merits. The Patent and Trademark Office is authorized to charge the appropriate filing fee of \$180 or credit any overpayment associated with this paper to Deposit Account No. 19-0733.

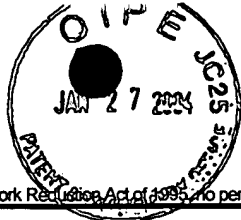
Respectfully submitted,  
BANNER & WITCOFF, LTD

Dated: January 27, 2004

By: \_\_\_\_\_



Scott A. Burrow  
Reg. No. 42,373



PTO/SB/08a (05-03)

Approved for use through 04/30/2003. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449A/PTO

**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

(use as many sheets as necessary)

Sheet 1 of 2

**Complete if Known**

Application Number	10/052,077
Filing Date	January 17, 2002
First Named Inventor	Rogers
Art Unit	3763
Examiner Name	Kevin C. Simons
Attorney Docket Number	11738.00052

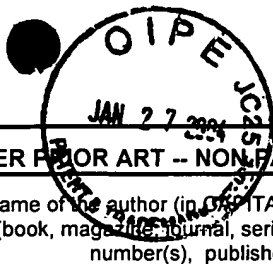
**U.S. PATENT DOCUMENTS**

Examiner Initials *	Cite No. <sup>1</sup>	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number - Kind Code <sup>2</sup> (if known)			
		US- 4077405	03-07-1978	Haerten et al	
		US- 4696671	09-29-1987	Epstein et al	
		US- 4828545	05-09-1989	Epstein et al	
		US- 4865584	09-12-1989	Epstein et al	
		US- 4898583	02-06-1990	Borsanyi et al	
		US- 4898585	02-06-1990	Borsanyi et al	
		US- 5049141	09-17-1991	Olive	
		US- 5100380	03-31-1992	Epstein et al	
		US- 5267964	12-07-1993	Karg	
		US- 5304126	04-19-1994	Epstein et al	
		US- 5464392	11-07-1995	Epstein et al	

**FOREIGN PATENT DOCUMENTS**

Examiner Initials *	Cite No. <sup>1</sup>	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>6</sup>
		Country Code <sup>3</sup> - Number <sup>4</sup> - Kind Code <sup>5</sup> (if known)				
	DE	✓ 19642234 w/translation attached	04-30-1998	Tricumed GmbH		
	GB	✓ 1506305	04-05-1978	Siemens Aktiengesellschaft		
	EPO	✓ 0039124	11-04-1981	Infusaid Cororation		
	EPO	✓ 0079405	05-25-1983	The Commonwealth of Australia		
	EPO	✓ 0134614	03-20-1985	Vitafin N.V.		
	EPO	✓ 0254031	01-27-1988	Consolidated Controls Corporation		
	EPO	✓ 0342947	11-23-1989	Baxter International, Inc.		
	EPO	✓ 0420620	04-03-1991	Infusaid, Inc.		
	EPO	✓ 0424494	03-02-1994	Baxter International, Inc.		
	EPO	✓ 0860173	8-26-98	Indravudh Virtoe		
	WO	✓ 8700758	2-12-87	Baxter Travenol Laboratories		
	WO	✓ 9115258	10-17-1991	Medtronic, Inc.		
	WO	✓ 9938551	08-05-1999	Medtronic, Inc.		

RECEIVED  
FEB 04 2004  
TECHNOLOGY CENTER R3700



OTHER PRIOR ART -- NON-PATENT LITERATURE DOCUMENTS			
Examiner Initials *	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>2</sup>
		French Search Report; August 28, 2001 (2 pages)	
		French Search Report; October 21, 2003; (3 pages)	

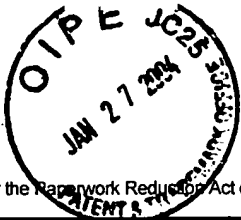
RECEIVED  
FEB 04 2004  
TECHNOLOGY CENTER R3700

Examiner Signature		Date Considered	
--------------------	--	-----------------	--

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

1 Applicant's unique citation designation number (optional). 2 Applicant is to place a check mark here if English language Translation is attached. This collection of information is required by 37 CFR 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 120 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*



01-29-04

376318

PTO/SB/21 (05-03)

Approved for use through 04/30/2003. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>	Application Number	10/052,077
	Filing Date	January 17, 2002
	First Named Inventor	Rogers
	Art Unit	3763
	Examiner Name	Kevin C. Simons
Total Number of Pages in This Submission	Attorney Docket Number	11738.00052

RECEIVED  
FEB 04 2004  
TECHNOLOGY CENTER R3700

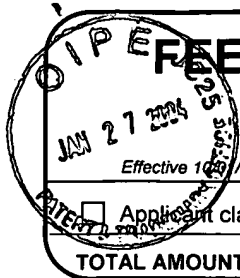
ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form  <input type="checkbox"/> Fee Attached  <input type="checkbox"/> Amendment / Response  <input type="checkbox"/> After Final  <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request  <input checked="" type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/ Incomplete Application  <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application)  <input type="checkbox"/> Drawing(s)  <input type="checkbox"/> Licensing-related Papers  <input type="checkbox"/> Petition  <input type="checkbox"/> Petition to Convert to a Provisional Application  <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer  <input type="checkbox"/> Request for Refund  <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group  <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences  <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)  <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter  <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):  <b>PTO SB 08A with cited references attached</b>
Remarks		Being filed via Express Mail No.: EL941345990US
The Commissioner is hereby authorized to charge any deficiencies in payment or credit any overpayment to our Deposit Account 19-0733.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Scott A. Burow
Signature	
Date	January 27, 2004

CERTIFICATE OF MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name			
Signature		Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



# FEE TRANSMITTAL for FY 2004

Effective 10/1/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 180

## Complete if Known

Application Number 10/052,077  
Filing Date January 17, 2002  
First Named Inventor Rogers  
Examiner Name Simons, Kevin C.  
Art Unit 3763  
Attorney Docket No. 11738.00052

RECEIVED  
FEB 04 2004  
TECHNOLOGY CENTER R3700

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit  
Account  
Number

19-0733

Deposit  
Account  
Name

Banner & Witcoff, LTD.

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments  
☒ Charge any additional fee(s) during the pendency of this application  
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
SUBTOTAL (1)					(\$ 0)

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims  - \*\* =  0 X  =  0  
Independent Claims  - \*\* =  0 X  =  0  
Multiple Dependent  X  =  0

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$ 0)

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17 (q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	180
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) \_\_\_\_\_

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 180)

## SUBMITTED BY

## Complete (if applicable)

Name (Print/Type) Scott A. Burow  
Registration No. (Attorney/Agent) 42,373  
Telephone 312-463-5000  
Signature *Scott Burow*  
Date January 27, 2004

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing this form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.